



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 29, 1996

Mr. Thomas L. Finlay
Deputy City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR96-0092

Dear Mr. Finlay:

You seek reconsideration of Open Records Letter No. 95-1379 (1995), in which this office determined that the Texas Open Records Act, Government Code chapter 552, required the City of San Antonio (the "city") to make certain information available to the public. We have assigned your request for reconsideration ID# 37791.

The city received a request for six categories of documents, one of which was for "all legal billings for the Law Firm of Lloyd, Gosselink." You sought to withhold this requested information under section 552.107 of the Government Code. However, you failed to request an opinion from this office within ten days of the city's receipt of the request. As section 552.107 is not a compelling reason to overcome the presumption of openness that arises when a ten-day violation occurs, we concluded in Open Records Letter No. 95-1379 (1995) that the city must release the requested information.

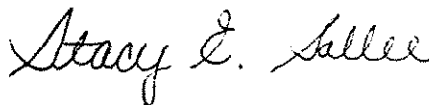
You claimed at the time you submitted your original request and claim again in the request for reconsideration that you could not know what exceptions to disclosure the city could raise until you had reviewed the requested files. As the requested billing files were in various storage facilities, you claim that the city's finance department could not retrieve the documents within the ten days mandated by statute. You contend that the billing files were voluminous and that it was not until a legal team reviewed the documents that the city was aware that it wished to claim exceptions to disclosure. As we stated in Open Records Letter No. 95-1379 (1995), these facts may have supported the city's failure to timely submit the requested information to this office for review. However, the city was aware that legal billings were being requested, thereby presumably giving rise to exceptions for information protected by the attorney-client privilege and the attorney work

product privilege. Therefore, even without reviewing the requested documents, the city should have been aware that these exceptions could have been implicated due to the nature of the request and could have raised those discretionary exceptions within the ten days provided for by statute. Had the city subsequently discovered that it did not wish to pursue those exceptions, the city could have voluntarily disclosed the requested documents and withdrawn its request for a ruling from this office.

Moreover, the ten-day requirement set out in chapter 552 of the Government Code is a legislative mandate. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 18, 1995 Tex. Sess. Law Serv. 5127, 5139 (Vernon) (to be codified as Gov't Code § 552.301). Consequently, this office cannot "excuse" the city from this requirement unless the city is able to present compelling reasons why the requested information should not be released. You argue that the attorney-client privilege should be treated as "compelling." This office addressed that contention in Open Records Decision No. 630 (1994), and concluded that the attorney-client privilege is not a compelling reason to overcome the presumption of openness that arises when a governmental body fails to request a ruling from this office within ten days of receiving a request for information. Therefore, we decline to reconsider our ruling in Open Records Letter No. 95-1379 (1995).

If you have any questions about this ruling, please contact this office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 37791

cc: Mr. Bob Comeaux
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